

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA,)

v.)

**ROLAND CASTELLANOS,)
Defendant)**

CRIMINAL ACTION

FILE NO.

4:11-CR-00022

**MOTION FOR VARIANCE AND/OR IMPOSITION
OF REASONABLE SENTENCE**

COMES NOW, Defendant Roland Castellanos, by and through his undersigned attorneys and hereby moves the Court to grant Defendant a variance from the established guideline range and/or afford Defendant a reasonable sentence based on and pursuant to 18 U.S.C. § 3553. In support of this Motion, Defendant shows as follows:

I. AUTHORITY TO PROVIDE FOR A REASONABLE SENTENCE

Since the United States Supreme Court decided *United States v. Booker*, 543 U.S. 220, 125 S. Ct. 738, 160 L. Ed. 2d 621 (2005), a District Court is no longer required to sentence a defendant within the range provided by the Sentencing Guidelines, but is still obligated correctly to calculate that range. Post- *Booker* sentencing requires two steps. First, the District Court must consult the Guidelines and correctly calculate the range provided by the Guidelines. See *United States v. Crawford*, 407 F.3d 1174, 1178 (11th Cir. 2005). Second, the District Court must consider several

factors to determine a reasonable sentence: (1) the nature and circumstances of the offense and the history and characteristics of the defendant; (2) the need to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (3) the need for deterrence; (4) the need to protect the public; (5) the need to provide the defendant with needed educational or vocational training or medical care; (6) the kinds of sentences available; (7) the Sentencing Guidelines range; (8) pertinent policy statements of the Sentencing Commission; (9) the need to avoid unwanted sentencing disparities; and (10) the need to provide restitution to victims. See 18 U.S.C. § 3553(a); *United States v. Talley*, 431 F.3d 784, 786 (11th Cir. 2005) (per curiam).

Attorneys filed lengthy objections to the Presentence Report; thus, the only issues that shall be addressed here are the letters of support for Mr. Castellanos. In order to fully understand and appreciate Mr. Castellano's true character, his life's story should be viewed through the lens of those whose lives have been touched by him instead of a cold PSR intent on dissecting his criminal culpability and the failure to accept responsibility because he chose to put the Government to their burden at trial. As the following attached letters demonstrate to this Court, Mr. Castellanos is a great friend, brother, son and all around caring person.

His mother, Maria Taveras writes that he is a caring son who is always willing to help others, and he is “generous and selfless,” and he does things without ever expecting something return. (See Exhibit A).

Farahnaz Rodriguez-Torres, his brother in law believes that Mr. Castellanos is a caring person, who is devoted to his family especially his grandparents. (See Exhibit B).

His sister Grace Rodriguez describes a family man who is responsible and dedicated to all members of his family. She tells the story of Roland taking his dog to the nursing home to visit him prior to his death. Everyone in the family has trusted him to help them in making important decisions. It is apparent from his sister how she views Roland, and how much she is devoted to him. She knows this Court will sentence him to prison, but she asks for it to be reasonable. (See Exhibit C).

Mr. Castellano’s friend Luis Rodriguez expresses his love for his friend and his kind spirit. He finds Roland to be a smart and compassionate human being. He discusses how Roland’s life is salvageable, and he should not have his life destroyed. He can be a productive member of our society. (See Exhibit D).

His brother-in-law Fitzgerald Rodriguez writes that Roland readily accepts responsibility for his actions, and he has lived a life free of crime. He speaks of Roland being a major influence in other people's lives. He asks that this Honorable Court consider the good things he has done as well prior to imposing a sentence. (See Exhibit E).

His friend, Harvey Rosenberg, talks about Roland growing so close to Mr. Rosenberg that he now considers him a brother. He finds Roland to be a loving and caring person. (See Exhibit F).

Kim Bovino writes a very loving letter as his friend. She gives a detailed account of Roland's character that includes his interaction with strangers, friends and family. She believes that it would be a waste of a life to send Roland away to prison. (See Exhibit G).

Alnardo Castellanos discusses his brother Roland, and how he has always been a great family man. He always worked hard in school, and he was a leading voice for the family. Alnardo acknowledges that Roland was found guilty and that this Honorable Court should punish him, but he requests leniency. (See Exhibit H).

Shamily Williams is a family friend who has known Roland since he was a child. She too discusses Roland's good heart and his family bonds.

She asks that the Honorable Court consider his entire life before pronouncing a long sentence. (See Exhibit I).

II. CONCLUSION

It is obvious that Mr. Castellanos is a family man and a great friend. If the Honorable Court sentenced him to lengthy incarceration, it would serve no useful purpose other than for punishment's sake. While a person should be punished from their crimes against the United States, this Honorable Court should balance this against the other good deeds that a person has done throughout their life.

WHEREFORE, for all the foregoing reasons, Defendant respectfully submits that a downward departure and/or variance is warranted in this case.

Respectfully submitted,

s/Lawrence J. Zimmerman
Lawrence J. Zimmerman
Attorney for Defendant
Georgia Bar No. 785198

s/Michael J. Trost
Michael J. Trost
Attorney for Defendant
Georgia Bar No. 716685

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CERTIFICATE OF SERVICE

I hereby certify that I have on this day served a true and correct copy of the within and foregoing MOTION FOR A REASONABLE SENTENCE on counsel using the ECF system which will automatically send e-mail notification of such filing to opposing counsel.

This the 18th day of June, 2014.

s/Lawrence J. Zimmerman
Lawrence J. Zimmerman
Attorney for Defendant
Georgia Bar No.785198

s/Michael J. Trost
Michael J. Trost
Attorney for Defendant
Georgia Bar No. 716685